

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Lykos

Mailed: June 23, 2005

Cancellation No. 92044040

KARIN MODELS, S.A.R.L.

v.

BRUNEL, JEAN LUC

Angela Lykos, Interlocutory Attorney

This case now comes up for consideration of respondent's motions to extend its time to answer the petition for cancellation and petitioner's motion for default judgment.

Respondent's answer, as reset by Board order in its corrected institution order, was due on February 12, 2005. On February 11, 2005, respondent filed a motion to extend its time to answer on the grounds that it was unable to retain legal counsel until that date and needed additional time to prepare an appropriate response. The record reflects that petitioner did not file a responsive brief to this motion.

Thereafter, on March 14, 2005, respondent filed a second motion to extend its time to answer until April 14, 2005, asserting that its legal counsel needed additional

time to complete a title history search for the registrations at issue in the proceeding and confer with respondent who had been traveling extensively outside of the country. Petitioner filed a response thereto, indicating that in a prior communication with respondent, it had agreed to a one-week extension, but now it did not object to a two-week extension until March 28, 2005.

On April 14, 2005, respondent filed a third extension request. Unlike the previously filed requests, this one contained an allegation of petitioner's consent, making the answer due on April 28, 2005.

On April 28, 2005, respondent filed a fourth motion to extend its time to answer, noting that respondent had proposed a settlement "which is expected to resolve this matter shortly." Petitioner filed a responsive brief on May 11, 2005, arguing that although the parties had indeed discussed settlement proposals, it was unclear whether they would reach an agreement. Petitioner also explicitly stated that it wished to move forward with this proceeding.

Subsequently, on June 7, 2005, petitioner filed a motion for default judgment.

As a preliminary matter, in view of the fact that the Board has yet to rule on respondent's outstanding motions to extend, petitioner's motion for default judgment is denied as premature.

The Board now turns to the issue of whether respondent is entitled to an extension of time to file its answer. The appropriate standard for allowing an extension of a prescribed period prior to the expiration of the time period is "good cause." See Fed. R. Civ. P. 6(b) and TBMP § 509 and the authorities cited therein. The Board generally is liberal in granting extensions of time before the period to act has elapsed so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused. See, e.g., *American Vitamin Products Inc., v. DowBrands Inc.*, 22 USPQ2d 1313 (TTAB 1992); and *Sunkist Growers, Inc. v. Benjamin Ansehl Company*, 229 USPQ 147 (TTAB 1985).

The Board will consider each extension request in turn.

Inasmuch as the Board is not in receipt of any brief in opposition thereto, respondent's first extension request is granted as conceded. See Trademark Rule 2.127(a).

As to respondent's second extension request, the Board finds that the circumstances recited by respondent (additional time required to complete a title history search for the registrations at issue and confer with respondent who had been traveling extensively outside of the country) constitute the requisite good cause to warrant an extension of time.

Insofar as respondent's third extension request contains an allegation of petitioner's consent, it is also approved.

The Board now turns its attention to respondent's fourth extension request. Ordinarily, vague references to settlement discussions do not constitute good cause to warrant an extension of time. *See, e.g. Fairline Boats plc v. New Howmar Boats Corp.*, 59 USPQ2d 1479 (TTAB 2000). However, given the Board's delay in ruling on respondent's outstanding motions, the Board finds that the circumstances in this particular case constitute good cause to warrant an extension of time to answer.

Notwithstanding the above, the Board will not approve any additional requests to extend respondent's time to answer without petitioner's written consent.

In view thereof, respondent's motion to extend its time to answer the petition for cancellation is granted. Respondent is allowed until **twenty (20)** days from the mailing date of this order to answer the petition for cancellation.

In order to prevent prejudice to either party, trial dates are reset as follows:

THE PERIOD FOR DISCOVERY TO CLOSE: November 20, 2005

30-day testimony period for party in
position of plaintiff to close: February 18, 2006

30-day testimony period for party in

position of defendant to close: April 19, 2006

15-day rebuttal testimony period for
plaintiff to close: June 3, 2006

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.